

# House File 533 - Introduced

HOUSE FILE 533

BY SALMON

## A BILL FOR

1 An Act relating to free speech requirements at public  
2 institutions of higher education and providing for remedies.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. Section 261H.2, Code 2021, is amended to read as  
2 follows:

3     **261H.2 Policy adoption.**

4     1. The state board of regents and the board of directors of  
5 each community college shall adopt a policy that includes all  
6 of the following statements:

7     ~~1.~~ a. That the primary function of an institution of higher  
8 education is the discovery, improvement, transmission, and  
9 dissemination of knowledge by means of research, teaching,  
10 discussion, and debate. This statement shall provide that, to  
11 fulfill this function, the institution must strive to ensure  
12 the fullest degree of intellectual freedom and free expression  
13 allowed under the first amendment to the Constitution of the  
14 United States.

15     ~~2.~~ ~~a.~~ b. (1) That it is not the proper role of an  
16 institution of higher education to shield individuals from  
17 speech protected by the first amendment to the Constitution of  
18 the United States, which may include ideas and opinions the  
19 individual finds unwelcome, disagreeable, or even offensive.

20     ~~b.~~ (2) That it is the proper role of an institution of  
21 higher education to encourage diversity of thoughts, ideas,  
22 and opinions and to encourage, within the bounds of the  
23 first amendment to the Constitution of the United States, the  
24 peaceful, respectful, and safe exercise of first amendment  
25 rights.

26     ~~3.~~ c. That students and faculty have the freedom to  
27 discuss any problem that presents itself, assemble, and engage  
28 in spontaneous expressive activity on campus, within the  
29 bounds of established principles of the first amendment to the  
30 Constitution of the United States, and subject to reasonable  
31 time, place, and manner restrictions that are consistent with  
32 established first amendment principles.

33     ~~4.~~ d. That the outdoor areas of campus of an institution  
34 of higher education are public forums, open on the same terms  
35 to any invited speaker subject to reasonable time, place,

1 and manner restrictions that are consistent with established  
2 principles of the first amendment to the Constitution of the  
3 United States.

4 2. The policy shall include a range of disciplinary  
5 sanctions for anyone who is under the jurisdiction of the  
6 public institution of higher education and who materially and  
7 substantially interferes with the free expression of others.

8 3. The policy shall require the public institution of higher  
9 education to attempt to remain neutral on current public policy  
10 controversies, except insofar as administrative decisions on  
11 such controversies are essential to the day-to-day functioning  
12 of the institution, and shall prohibit the institution from  
13 taking action on current public policy controversies in such a  
14 way as to require members of the campus community to publicly  
15 express a given view of a public policy controversy.

16 Sec. 2. Section 261H.5, Code 2021, is amended by adding the  
17 following new subsections:

18 NEW SUBSECTION. 1A. A member of the campus community who is  
19 the subject of a complaint filed in accordance with subsection  
20 1 is entitled to a disciplinary hearing under procedures  
21 published by the public institution of higher education on  
22 the institution's internet site and the member of the campus  
23 community is further entitled, at minimum, to the following:

24 a. The right to receive advanced written notice of the  
25 charges.

26 b. The right to review the evidence in support of the  
27 charges.

28 c. The right to confront any witness to the alleged  
29 violation.

30 d. The right to present a defense.

31 e. The right to call witnesses.

32 f. The right to a decision by an impartial arbiter or panel.

33 g. The right to appeal a decision of the public institution  
34 of higher education to the institution's governing body.

35 h. The right to active assistance of counsel if the

1 potentially applicable sanctions adopted pursuant to section  
2 261H.2, subsection 2, include suspension for longer than thirty  
3 days or expulsion.

4 NEW SUBSECTION. 1B. If two or more disciplinary hearings  
5 conducted pursuant to this section result in disciplinary  
6 actions against the same student, the student shall be  
7 suspended for a minimum of one year or expelled. If two or more  
8 disciplinary hearings conducted pursuant to this section result  
9 in disciplinary actions against the same faculty member, that  
10 faculty member's employment shall be terminated.

11 NEW SUBSECTION. 3A. If the court finds that a violation  
12 of this chapter occurred, the court shall award the aggrieved  
13 person injunctive relief for the violation; shall award  
14 reasonable court costs and reasonable attorney fees; and shall  
15 also award damages of one thousand dollars or actual damages,  
16 whichever is higher.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with  
19 the explanation's substance by the members of the general assembly.

20 This bill relates to policies adopted by public institutions  
21 of higher education relating to free expression and to  
22 protected expressive activities, and provides remedies.

23 The state board of regents and the board of directors of each  
24 community college must adopt policies that include a range of  
25 disciplinary sanctions for anyone who is under the jurisdiction  
26 of regents universities or community colleges, as appropriate,  
27 and who materially and substantially interfere with the free  
28 expression of others; and with certain exceptions, that require  
29 the universities and community colleges to attempt to remain  
30 neutral on current public policy controversies, and prohibit  
31 such institutions from taking action on current public policy  
32 controversies in such a way as to require members of the campus  
33 community to publicly express a given view of a public policy  
34 controversy.

35 The bill provides that a member of the campus community who

1 is the subject of a complaint filed in accordance with Code  
2 section 261H.5 is entitled to a disciplinary hearing and the  
3 member of the campus community is further entitled, at minimum,  
4 to the right to receive advanced written notice of the charges,  
5 to review the evidence in support of the charges, to confront  
6 any witness to the alleged violation, to present a defense,  
7 to call witnesses, to a decision by an impartial arbiter or  
8 panel, to appeal a decision of the public institution of higher  
9 education to the institution's governing body, and to active  
10 assistance of counsel if the ranges of disciplinary sanctions  
11 include suspension for longer than 30 days or expulsion.

12 If two or more disciplinary hearings result in disciplinary  
13 actions against the same student, the student must be suspended  
14 for a minimum of one year or expelled. If two or more  
15 disciplinary hearings result in disciplinary actions against  
16 the same faculty member, that faculty member's employment shall  
17 be terminated.

18 If the court finds that a violation of Code chapter 261H  
19 occurred, the court shall award the aggrieved person injunctive  
20 relief for the violation; shall award reasonable court costs  
21 and reasonable attorney fees; and shall also award damages of  
22 \$1,000 or actual damages, whichever is higher.